

The Gazette of India



EXTRAORDINARY

PART I—Section 1

PUBLISHED BY AUTHORITY

No. 14] NEW DELHI, MONDAY, JANUARY 18, 1954

SUPREME COURT OF INDIA

NOTIFICATION

New Delhi, the 16th January 1954

No. F.10/53-SCC.—The following is published for general information:—

AMENDMENTS TO SUPREME COURT RULES 1950

The Supreme Court of India, in the exercise of its rule-making powers, and with the approval of the President, hereby makes, with effect from the 26th of January 1954, the following further amendments in the Supreme Court Rules, 1950, namely:—

In the said Rules—

(1) in ORDER I

Rule 2, sub-rule (1)—

(a) after the definition of "Advocate" the following shall be inserted, namely:—

" "Advocate on Record" means an Advocate who is entitled under these Rules to act as well as to plead for a party in the Court";

(b) for the definition of "Agent", the following shall be substituted, namely:—
" "Agent" means an Agent on the Rolls of the Court as on the 26th January 1954."

(c) after the definition of "High Court" the following shall be inserted, namely:—

" "Court appealed from" includes a tribunal and any other judicial body from which an appeal is preferred to the Court."

(d) in the definition of "Party", for the word "Agent", wherever it occurs, the words "Advocate on record" shall be substituted.

(2) in ORDER III—

(a) rule 2 shall be omitted;

(b) existing rule 3 shall be re-numbered as rule 2 and after rule 2 as so re-numbered, the following rule shall be inserted, namely:—

"3. In the absence of the Registrar, the Deputy Registrar may exercise all the functions of the Registrar.";

(c) in rule 6, the words "if authorized in that behalf in writing by the Registrar" shall be omitted;

(d) after rule 7, the following rule shall be inserted, namely:—

“8. In addition to the powers conferred by other rules, the Registrar shall have the following duties and powers subject to any general or special order of the Chief Justice—

- (i) to require any plaint, petition of appeal, petition or other proceeding presented to the Court to be amended in accordance with the practice and procedure of the Court or to be re-presented after such requisition as the Registrar is empowered to make in relation thereto, has been complied with;
- (ii) to fix the date of hearing of appeals, petitions or other proceedings and issue notices thereof;
- (iii) to settle the index in cases where the record is prepared in the Supreme Court;
- (iv) to make an order for change of Advocate on record with the consent of the Advocate on record;
- (v) to direct any formal amendment of record;
- (vi) to grant leave to inspect and search the records of the Court and order the grant of copies of documents to parties to proceedings;
- (vii) to allow from time to time any period or periods not exceeding four weeks in the aggregate for furnishing information, complying with requisitions or for doing any other act necessary to make a plaint, petition or appeal complete.”

(3) for ORDER IV, the following order shall be substituted, namely:—

“ORDER IV

ADVOCATES

1. In this Order “High Court” includes a Court of the Judicial Commissioner and any reference to a Judge of the High Court shall be deemed to include a reference to the Judicial Commissioner or any Additional Judicial Commissioner.

2. A person qualified as hereinafter mentioned may apply to be enrolled as an Advocate of the Court and, if his application is granted shall, on payment of the prescribed fee, be entitled to be so enrolled.

3. A person shall not be qualified for being enrolled as an Advocate unless he—

- (1) (a) possesses a degree in law of an Indian University;

or

- (b) is a member of the English Bar;

and

- (2) is and has been for not less than seven years enrolled as an Advocate in a High Court in the territory of India.

The period during which a person was entitled as of right to practise as a vakil in a High Court in Part A State or as a vakil or pleader in a High Court in Part B or Part C State immediately before his enrolment as an Advocate in that High Court, may be taken into account, for the purpose of calculating the above-mentioned period of seven years.

4. Every applicant for enrolment as an Advocate shall produce the following documents:—

- (i) A copy of his enrolment certificate in his own High Court duly authenticated by the Registrar of the High Court;
- (ii) A certificate from the Registrar of the High Court that he has been and is still an Advocate of that High Court;
- (iii) A certificate of character obtained from the Attorney-General for India, or the Advocate-General of the State concerned, or a Judge of the High Court of that State.

5. The Chief Justice and Judges may, if for any special reason they think it desirable to do so, permit the enrolment of any other person, who is in their opinion sufficiently qualified, as an Advocate, or permit such person to appear as an advocate in a particular case.

6. The Roll of Advocates shall be in two parts, one containing the names of Senior Advocates and the other the names of other Advocates.

7. An Advocate of the Supreme Court or an Advocate with not less than ten years' standing in a High Court and qualified to be enrolled as an Advocate of the Supreme Court, may apply to be enrolled in the list of Senior Advocates, and the full Court may admit him to the Roll of Senior Advocates, if, in its opinion, he deserves the distinction by virtue of his ability, status and reputation at the Bar, subject to his giving an undertaking that he shall not draw pleadings, affidavits, advice on evidence or do any drafting work of an analogous kind. The undertaking shall not, however, apply to settling any such matters in consultation with a Junior.

8. The Attorney-General for India, after him, the Solicitor General of India and after him the Advocate-General of a State appearing as such, shall have precedence over all other Advocates in the Court.

9. Save as aforesaid a Senior Advocate shall have precedence over other Advocates.

10. Subject to the preceding rules of this Order, an Advocate appearing before the Court shall have precedence among the Senior or other Advocates, as the case may be, according to the date of his enrolment as a Senior or other Advocate in the Court, and Advocates transferred to the Rolls of the Supreme Court from the Rolls of the Federal Court shall take precedence in the Supreme Court in the order in which they were enrolled in the Federal Court.

11. Any question which arises with respect to the precedence of any Advocate-General of a State or an Advocate shall be determined by the Court.

12. The Roll of Advocates shall be kept by the Registrar and shall contain such particulars as the Court may from time to time require.

13. All Advocates appearing before the Court shall wear such robes and costume as may from time to time be directed by the Court.

14. The enrolment fee for an Advocate other than a Senior Advocate shall be Rs. 250 and for a Senior Advocate Rs. 500.

Provided that where an Advocate of the Supreme Court is enrolled as a Senior Advocate, the fee payable by him on such enrolment shall be reduced by the amount of the original fee paid by him for his enrolment as an Advocate of the Supreme Court.

15. An Agent on the Rolls of the Court as on the 26th of January 1954, may apply for being enrolled as an Advocate if he possesses the qualifications prescribed in rule 3 but against the period of seven years' standing as an Advocate in a High Court prescribed in sub-rule (2) of the said rule, he may count in his favour any period during which he has practised as an Agent in the Supreme Court and in the Federal Court or in either of them.

Where the application of an Agent for enrolment as an Advocate is granted, the fee payable by him on his enrolment as Advocate shall be reduced by the amount of fee originally paid by him for his enrolment as Agent.

16. There shall be no enrolment of Agents on and from the 26th January 1954, and, save as hereinafter provided, the roll of Agents in the Court shall stand abolished with effect from 26th February 1954 and no Agent shall be entitled on or after the 26th February 1954, to act for any party or institute any proceedings on behalf of any party in the Court by virtue of his having been an Agent on the Rolls of the Court before that date.

17. (1) In respect of proceedings pending on the 26th February 1954, the Agents on record in those proceedings, except where they have been enrolled as Advocates, may continue to act as Agents for the parties in the said proceedings after the said date and the taxation and all other rules relating to Agents in force prior to the 26th January 1954 shall apply to such proceedings and to the Agents in such proceedings.

(2) The taxation rules in force prior to the 26th January 1954 shall also apply to all proceedings which terminated prior to 26th February 1954, and in respect of all such proceedings, the Agents concerned, notwithstanding their enrolment as Advocates, may continue to act as Agents for purposes of taxation in such proceedings.

18. Where a person who is on record as an Agent in any pending proceeding is enrolled as an Advocate, he may continue to act for the party in the said proceeding without filing a fresh authority, and may also plead if authorised by his client. Subject to the provision in sub-rule (2) of Rule 17, the taxation rules in force prior to the 26th January 1954 shall apply to the said pending proceeding in respect of all matters up to the date of the enrolment of the Agent as an Advocate and the new rules of taxation shall apply to the said proceeding in respect of all matters subsequent to the said date.

19. Any Advocate having an office in Delhi and not being a Senior Advocate, may register himself with the Registrar as an Advocate on record and on such registration, he shall be entitled to act as well as to plead for any party in a proceeding on his filing in that proceeding a memorandum of appearance accompanied by a vakalatnama duly executed by the party in the prescribed form.

No Advocate other than an Advocate on record shall be entitled to file an appearance or act for a party in the Court.

20. No Advocate other than an Advocate on record shall appear and plead in any matter unless he is instructed by an Advocate on record.

21. Every Advocate on record shall notify to the Registrar the address of his office in Delhi and any change of address, and any notice, writ, summons, or other document served on him or his clerk at the address notified by him shall be deemed to have been properly served.

22. Any Advocate on record may employ a clerk to attend the Registry for presenting or receiving any papers on behalf of the said Advocate, provided that the clerk has been duly registered in the registry as the clerk of the said Advocate. The Registrar may decline to register any clerk who in his opinion is not sufficiently qualified to be registered as such.

23. Any Advocate who wishes to suspend his practice by reason of his appointment to any office of profit under the Government or his being engaged in another profession or for any other reason shall give intimation thereof to the Registrar.

24. No person having an Advocate on record shall file a vakalatnama authorising another Advocate on record to act for him in the same case save with the consent of the former Advocate on record or by leave of the Judge in Chambers, unless the former Advocate on record is dead, or is unable by reason of infirmity of mind or body to continue to act.

25. Where a party changes his Advocate on record, the new Advocate on record shall give notice of the change to all other parties appearing.

26. No Advocate may, without the leave of the Court, withdraw from the conduct of any case by reason only of the non-payment of fees by his client.

27. No person having an Advocate on record shall be heard in person save by special leave of the Court.

28. No Advocate on record shall authorise any person whatsoever, except another Advocate on record, to act for him in any case.

29. Every Advocate on record shall be personally liable to the Court for the due payment of all fees and charges payable to the Court.

30. Where on the complaint of any person or otherwise, the Court is of opinion that an Advocate has been guilty of misconduct or of conduct unbecoming an Advocate, the Court may debar him from practising before the Court either permanently or for such period as the Court may think fit, and the Registrar shall thereupon report his name to his own High Court:

Provided that the Court shall in the first instance direct a summons to issue returnable before the Court or before a Special Bench to be constituted by the Chief Justice, requiring the Advocate to show cause against the matters alleged in the summons, and the summons shall, if possible, be served personally upon him with copies of any affidavit or statement before the Court at the time of the issue of the summons.

31. Two or more Advocates of the Court not being Senior Advocates, may enter into partnership with one another, and any one of them may act in the name of the partnership provided that the firm has an office in Delhi, and is registered with the Registrar. Any change in the composition of the firm shall be intimated to the Registrar.

32. Senior Advocates on the Rolls of the Court as on the 26th January 1954 may apply for the transfer of their names from the Roll of Senior Advocates to the Roll of Advocates, and on their application being granted, their names shall be removed from the Roll of Senior Advocates and included in the Roll of Advocates. The applicant, however, shall not be entitled to a refund of any part of the fee previously paid for his enrolment as Senior Advocate."

(4) for ORDER V the following shall be substituted, namely:—

"ORDER V

BUSINESS IN CHAMBERS

1. The powers of the Court in relation to the following matters may be exercised by the Registrar:—

- (1) Applications for discovery and inspection.
- (2) Applications for delivery of interrogatories.
- (3) Applications for substituted service.
- (4) Applications for time to plead, for production of documents, and generally relating to the conduct of cause, appeal or matter.
- (5) Applications for leave to take documents out of the custody of the Court.
- (6) Questions arising in connection with the payment of court-fees.
- (7) Applications by third parties for return of documents.
- (8) Applications for grant of copies of records to third parties.
- (9) Applications for issue of a certificate regarding any excess court-fee paid under a mistake.

2. The powers of the Court in relation to the following matters may be exercised by a single Judge sitting in Chambers:—

- (1) Applications for revivor or substitution.
- (2) Application for approval of a Translator or an Interpreter.
- (3) Applications for production of documents outside Court premises.
- (4) Applications for change of Advocate on record.
- (5) Applications by Advocate on record for leave to withdraw.
- (6) Applications for leave to compromise or discontinue pauper appeal.
- (7) Applications for striking out or adding party.
- (8) Applications for separate trials of causes of action.
- (9) Application for separate trials to avoid embarrassment.
- (10) Rejection of plaint.
- (11) Applications for setting down for judgment in default of written statement.
- (12) Applications for better statement of claim or defence.
- (13) Applications for particulars.
- (14) Applications for striking out any matter in a pleading.
- (15) Applications for amendment of pleading and for enlargement of time to amend.
- (16) Applications to withdraw suits.
- (17) Applications for payment into Court.
- (18) Applications for payment out of Court of money or security, or interest or dividend on securities.
- (19) Applications to tax bills returned by the Taxing Officer.
- (20) Applications for costs of taxation where one-sixth is taxed off.
- (21) Applications for review of taxation by Court.
- (22) Applications for enlargement or abridgement of time except applications for condonation of delay in filing special leave petitions.
- (23) Applications for issue of commissions.
- (24) Application for security for costs.

- (25) Application for assignment of Security Bonds.
- (26) Questions arising in taxation referred by the Taxing Officer.
- (27) Applications for extending returnable dates of warrants.
- (28) Applications for orders against clients for payment of costs.
- (29) Applications for taxation and delivery of bills of costs, and for delivery by an Advocate of documents and papers.
- (30) Applications for enrolment of Advocates other than Senior Advocates.
- (31) Applications for leave to proceed *in forma pauperis*.
- (32) Applications for grant of bail.
- (33) Applications for stay of execution of a sentence of order in criminal proceedings.
- (34) Applications for stay of execution of decree or order in civil matters during vacation.
- (35) Consent applications in interlocutory matters.
- (36) Applications by accused persons for engagement of Advocate under rule 11 of Order XXI.
- (37) Applications to appoint or discharge a next friend or guardian of a minor or a person of unsound mind and direct amendment of the record thereon.
- (38) Fixing the remuneration of a court guardian.

3. An appeal shall lie from the Registrar in all cases to the Judge in Chambers:

Provided that it is filed within fifteen days from the date of the order complained of.

4. The Registrar may, and if so directed by the Judge in Chambers shall, at any time adjourn any matter to the Judge in Chambers, and the Judge in Chambers may at any time adjourn any matter into Court."

(5) for ORDER VI the following shall be substituted namely:—

"ORDER VI

NOTICES OF MOTION

1. Except where otherwise provided by any statute or prescribed by these Rules, all applications which in accordance with these Rules cannot be made in Chambers shall be made on motion after notice to the parties affected thereby.

2. Where the delay caused by notice would or might entail serious hardship, an application may be made for an *ad-interim ex-parte* order duly supported by an affidavit and the Court, if satisfied that the delay caused by notice would entail serious hardship, may make an order *ex-parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court may think just, pending orders on the main application by notice of motion.

3. Where an *ex-parte* order is made by the Court, unless the Court has fixed a date for the return of the notice, or otherwise directs, the Registrar shall fix a date for the return of the notice and the application by notice of motion shall be posted before the Court for final orders on the return date.

4. A notice of motion shall be intitled in the suit or matter in which the application is intended to be made and shall state the time and place of application and the nature of the order asked for and shall be addressed to the party or parties intended to be affected by it, unless they have an Advocate on record, in which case it may be addressed to the Advocate on record, and shall be signed by the Advocate on record of the party moving, or by the party himself where he acts in person.

5. The notice of motion together with the affidavit in support thereof shall be served on the opposite party not less than five days before the day appointed for the motion and the affidavit of service shall be filed in the Registry at least three days before the day appointed for the motion. Affidavits in answer or reply shall be filed in the Registry during office hours not later than 4 P.M. on

the day preceding the day of hearing; copies of these affidavits shall be served on the other parties to the notice of motion and the affidavits shall not be accepted in the Registry unless they contain an endorsement of service signed by the other party or parties.

6. Notice shall be given to the other party or parties of all grounds intended to be urged in support of, or in opposition to, any motion."

(6) for ORDER VII the following shall be substituted, namely:—

"ORDER VII

DOCUMENTS

1. The officers of the Court shall not receive any pleading, petition, affidavit or other document, except original exhibits and certified copies of public documents, unless it is fairly and legibly transcribed on one side of standard petition paper, demy-foolscap size, or paper which is ordinarily used in the High Courts for transcribing such documents.

2. No document in a language other than English shall be accepted for the purpose of any proceedings before the Court, unless translated in accordance with these Rules.

3. Every document required to be translated shall be translated by a translator nominated or approved by the Court.

4. Every translator shall, before acting, make an oath or affirmation that he will translate correctly and accurately all documents given to him for translation.

5. All plaints, petitions, appeals and other documents shall be presented in person by the plaintiff, petitioner or appellant or by an Advocate of the Court duly appointed by him for the purpose.

6. The Registrar may decline to accept any document which is presented otherwise than in accordance with the Rules of the Court.

7. Except as otherwise specifically provided by these rules or by any law for the time being in force, the court-fees set out in the Third Schedule to these rules shall be payable on the documents mentioned therein, and no document chargeable with a fee under the said Schedule shall be received or filed in the Registry unless the fee prescribed has been paid on it."

(7) in ORDER IX—

(a) in rule 4, for the words "an officer of Court", the words "the Registrar, Deputy Registrar, Assistant Registrar, or such other officer as may be" shall be substituted.

(b) after Rule 5, the following rule shall be added, namely:—

"6. The Registrar may, in his discretion, permit any record to be sent to any Court, tribunal or other public authority on requisition received from such Court, tribunal or authority."

8) in ORDER X—

(a) in rule 1, for the word "Agents" the words "Advocates on record" shall be substituted;

(b) in rule 4, for the words "on application to the Court" the words "on requisition made for the purpose" shall be substituted;

(c) in rule 5, after the word "Registrar" and before the word "and" the words "or Deputy Registrar" shall be inserted;

(d) for rule 7, the following shall be substituted—

"7. Orders made by the Court in other proceedings shall be transmitted by the Registrar to the Judicial or other authority concerned to whom such orders are directed, and any party may apply to the Judge in Chambers that any such order, including an order for payment of costs, be transmitted to any other appropriate Court or other authority for enforcement."

- (e) in rule 8, for the words "Judge in Chambers", the word "Court" shall be substituted.
- (f) in rule 9, for the words "where the draft of any decree or order is required by the parties to be settled", the following words shall be substituted:—

"Where the Registrar considers it necessary that the draft of any decree or order should be settled in the presence of the parties or where the parties require it to be settled".

(9) in ORDER XII—

- (a) for rule 1, the following shall be substituted—

"1. Subject to any special directions which the Court may give in any particular case, the provisions of Order XLV of the Code, and of any rules made for the purpose by the High Court or other authority concerned, so far as may be applicable, shall apply in relation to appeals preferred under Articles 132(1), 133(1) and 135 of the Constitution."

- (b) after rule 1, the following new rule shall be inserted—

"1A. The security to be furnished under Order XLV, rule 7(1)(a) of the Code shall, unless otherwise ordered by the Court appealed from, be in the sum of Rs. 2,500. The Court appealed from may in appropriate cases enhance the amount of security to be deposited up to a maximum of Rs. 5,000."

- (c) in rule 7, after the words "Unless otherwise ordered" and before the words "shall not be affected, the words "by this Court" shall be inserted.

- (10) for ORDER XIII the following shall be substituted, namely:—

"ORDER XIII

APPEALS BY SPECIAL LEAVE

1. A petition for special leave to appeal shall be lodged in the Court within **sixty days from the date of the refusal of leave to appeal by the High Court or within ninety days from the date of the judgment or order sought to be appealed from:**

Provided that in computing the period, the time requisite for obtaining a copy of the judgment or order sought to be appealed from shall be excluded:

Provided further that the Court may for sufficient cause extend the time on application made for the purpose.

2. Where an appeal lies to the Supreme Court on a certificate issued by the High Court or other Tribunal no application to the Supreme Court for special leave to appeal shall be entertained unless the High Court or the Tribunal concerned has first been moved and it has refused to grant the certificate.

3. The petition shall state succinctly and clearly all such facts as it may be necessary to state in order to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the Advocate for the petitioner unless the petitioner appears in person. The petition shall also state whether the petitioner has moved the High Court or Tribunal concerned for leave to appeal against its decision, and if so, with what result.

4. The petition shall be accompanied by a certified copy of the judgment or order appealed from and the affidavit in support thereof prescribed by rule 4 of Order XVII, and the petitioner shall lodge at least seven copies of the petition and the accompanying papers.

5. Unless a caveat as prescribed by rule 2 of Order XVII has been lodged by the other parties who appeared in the Court below, petitions for grant of special leave to appeal shall be put up for hearing *ex-parte* but the Court may, if it thinks fit, direct the petitioner to issue notice to the respondent and adjourn the hearing of the petition. Where the Court orders notice, the petition shall be posted for hearing after service of notice on the respondent and on an affidavit of service being duly filed by the petitioner.

Where a caveat has been lodged as aforesaid, notice of the hearing of the petition shall be given to the caveator; but a caveator shall not be entitled to costs of the petition, unless the Court otherwise orders.

6. In urgent cases, when the Court is in vacation, an application for special leave to appeal may be heard and disposed of by a single Judge.

7. Where the Court grants special leave to appeal, it may in its order specify the amount of the security for costs (if any) to be lodged by the petitioner, up to a maximum of Rs. 5,000 and the time within which such security is to be lodged, and, unless the circumstances of a particular case render such a course unnecessary, provide for the expeditious transmission of the printed record by the Registrar of the Court concerned or by other authority, to the Registrar of this Court, and for such further matters as the justice of the case may require. Unless the Court specially directs otherwise, any security for costs to be furnished by the petitioner shall be in the sum of Rs. 2,500 in cash or Government securities and shall be lodged in the Court or tribunal from whose judgment or decision special leave to appeal has been granted within six weeks of the date of the order granting special leave and that court of tribunal shall deal with such security in accordance with the directions contained in the order of the Court when determining the appeal.

8. After the grant of special leave to appeal by the Court, the Registrar shall transmit a certified copy of the order to the court or tribunal appealed from.

9. On receipt of the said order, the court or tribunal appealed from shall, in the absence of any special directions in the order, act in accordance with the provisions contained in Order XLV of the Code, so far as applicable.

10. Where an appellant who has obtained special leave to appeal desires, prior to the despatch of the record to this Court, to withdraw his appeal, the High Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn and the appeal shall thereupon be deemed as from the date of such certificate to stand dismissed without an express order of this Court and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the High Court may think fit to direct. A copy of the said certificate shall be forwarded to the Registrar of this Court.

11. Where the security is to be deposited in the Court appealed from, the Registrar of the Court appealed from shall, as soon as the deposit is made, intimate the fact and the date of such deposit to the Registrar of this Court; where the deposit is not made within the time fixed, or within such further time as may be granted by this Court, the Registrar of the Court appealed from shall forthwith report the default to the Registrar of this Court.

12. Upon intimation from the Registrar of the Court appealed from that the petitioner has committed default in depositing the security, or, where the security is to be deposited in this Court, upon default of the petitioner in depositing the same within the time fixed or such further time as the Court may grant, the Registrar shall, after notice to the Advocate for the petitioner, post the matter before the Court for orders on the default of the petitioner in lodging security, and the Court may thereupon revoke the order granting special leave or make such other order as it thinks fit.

13. Where the appellant who has obtained special leave to appeal by an order of this Court, fails to have the printed Record transmitted to the Registrar with due diligence, the Registrar shall call upon the appellant to explain his default, and, if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar may issue a summons to the appellant calling upon him to show cause before this Court at a time to be specified in the said summons why the special leave to appeal should not be rescinded. The respondent shall be entitled to be heard before this Court in the matter of the said summons and to ask for his costs and such other relief as he may be advised. The Court may, after considering the matter of the said summons, rescind the grant of special leave to appeal, or give such other directions as the justice of the case may require.

14. Where security is required to be furnished in this Court, it shall be given to the Registrar or to such other officer as the Court may specially direct, and the Court may permit or order him to assign the same to any other person for the purpose of enforcing it upon such terms as the Court may think fit.

15. Where the appellant has lodged security for the respondent's costs of an appeal in the Registry the Registrar shall deal with such security in accordance with the directions contained in the Court's order determining the appeal.

16. Save as otherwise provided by the rules contained in this Order, the provisions of Order XII and Orders XV to XX shall apply *mutatis mutandis* to appeals by special leave."

(11) for ORDER XIV, the following shall be substituted, namely:—

"ORDER XIV

PAUPER APPEALS & APPLICATIONS

1. A petition for leave to proceed as a pauper shall be made to the Judge in Chambers.
2. An application for leave to proceed as a pauper shall be made on petition setting out concisely in separate paragraphs the facts of the case and the relief sought and shall be accompanied by a copy of the certificate granting leave to appeal or of the petition for special leave to appeal, as the case may be, and by an affidavit from the petitioner disclosing all the property to which he is entitled and the value thereof other than his necessary wearing apparel and his interest in the subject matter of the intended appeal, and stating that he is unable to provide surties and pay court-fees, and also by a certificate of counsel that the petitioner has reasonable ground of appeal.
3. The Registrar shall, on satisfying himself that the petition is in order, direct that the petition shall be filed and set down for hearing before the Chamber Judge on a date to be fixed for the purpose.
4. The application shall be posted before the Judge in Chambers who may himself enquire into the pauperism of the petitioner after notice to the other parties in the case and to the Attorney-General, or make an order directing the High Court either by itself or by a Court subordinate to the High Court, to investigate the pauperism after notice to the parties interested and submit a report thereon within such time as may be fixed by the order. On receipt of the report, the petition shall again be posted before the Judge in Chambers for further orders.
5. In granting or refusing leave to appeal as a pauper, the Court shall ordinarily follow the principles set out in the proviso to rule 1 of Order XLIV of the Code.
6. Where a petitioner obtains leave of the Court to appeal as a pauper he shall not be required to pay court-fees or to lodge security for the costs of the respondent.
7. No fees shall be payable by a pauper to his Advocate nor shall any such fees be allowed on taxation of costs against the other party except by an order of the Court.
8. Where the appellant succeeds in the appeal, the Registrar shall calculate the amount of court-fees which would have been paid by the appellant if he had not been permitted to appeal as a pauper and incorporate it in the decree or order of the Court; such amount shall be recoverable by the Government of India from any party ordered by the Court to pay the same, and shall be the first charge on the subject matter of the appeal.
9. Where the appellant fails in the appeal or is dispaupered, the Court may order the appellant to pay the court-fees which would have been paid by him if he had not been permitted to appeal as a pauper.
10. The Central Government shall have the right at any time to apply to the Court to make an order for the payment of court-fees under rules 8 and 9 above.
11. All matters arising between the Central Government and any party to the appeal under the three preceding rules shall be deemed to be questions arising between the parties to the appeal.
12. In every pauper appeal the Registrar shall, after the disposal thereof, send to the Attorney-General for India a memorandum of the court-fees payable by the pauper.
13. No appeal begun or carried on by a pauper appellant shall be compromised or discontinued without the leave of the Court."

(12)

in ORDER XV—

- (a) rule 2 shall be renumbered as rule 3A and after rule 1 the following rule shall be inserted:—

"2. Where the record has been printed for the purpose of the High Court appeal in the High Court concerned and sufficient number of copies of the printed record are available for purposes of the Supreme Court appeal, no fresh printing of the record shall be necessary except of such additional papers as may be required."

- (b) in rule 3 the words "In cases where the record is printed afresh for the purpose of the Supreme Court appeal" shall be inserted at the beginning; and the words "and their agents" occurring after the word "parties" shall be omitted.
- (c) in rule 5, the following words shall be inserted at the beginning:—
"In cases where the record is printed afresh for the purpose of the Supreme Court appeal".
- (d) in rule 6 (i), for the figure "25" the figure "20" shall be substituted.
- (e) in rule 9, for the word "four", the word "three" shall be substituted.

(13)

in ORDER XVI —

- (a) in rule 1, the words "and after entering such appearance shall forthwith give notice thereof to the respondent" shall be omitted;
- (b) in rule 3, the following words shall be added at the end: "It shall contain at the foot of it a memorandum of valuation of the appeal with particulars showing how the valuation has been arrived at. Where the appeal is incapable of valuation, it shall be so stated.";
- (c) in rule 4, the word "special" occurring after the words "praying for" and before the words "leave to appeal", and the words "for special leave to appeal" occurring after the words "the petition" shall be omitted;
- (d) in rule 5, the words "as soon as the latter has entered an appearance" shall be omitted;
- (e) the following proviso shall be added to rule 5:
"Provided that the Registrar may dispense with service of the petition of appeal on any respondent who was *ex-parte* in the proceedings in the Court appealed from or on his legal representative:
Provided however that an order dispensing with service shall not preclude any respondent or his legal representative from appearing to contest the appeal."

- (f) for rule 6, the following shall be substituted—

"6. Where an appellant who has not lodged his petition of appeal desires to withdraw his appeal, he shall make an application to that effect to the Registrar and thereupon the Registrar shall, with all convenient speed, certify to the Registrar of the Court appealed from that the appeal has been withdrawn. The said appeal shall thereupon be deemed to stand dismissed as from the date of the said certificate without an express order of the Court and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court appealed from may think fit to direct."

- (g) in rule 11, after the word "respondent" and before the word "restore", the following words shall be inserted—
"who had entered appearance in the appeal".
- (h) in rule 12, for the words "who has died, or undergone a change of status or in regard to whom a representation has been made", the words "on record" shall be substituted.
- (i) rule 13 shall be omitted and rule 14 shall be renumbered as rule 13; and in rule 13 as so renumbered, for the words "who has died or undergone a change of status, or in regard to whom a representation has been made", the words "on record", shall be substituted.

The last sentence in rule 13 as so renumbered, beginning with the words "If in the opinion of the court" and ending with the words "to the Registrar of this Court", shall be omitted.

(j) after rule 13 as so renumbered the following rules shall be inserted—

"14. An application to bring on record the legal representative of a deceased appellant or respondent shall be made within sixty days of the death of the said appellant or respondent.

"14A. The provisions of Order XXII of the Code relating to abatement shall, so far as may be applicable, apply to appeals in the Court."

(k) in rule 16, for the words "covered by the 'Case Notice' given to him by the appellant under rule 6 of Order XVIII", the words "fixed for lodging his statement of case" shall be substituted;

(l) rule 21 shall be omitted.

(14) in ORDER XVII —

(a) in rule 1, for the word "Agent", the words "Advocate on record", shall be substituted and after the word "petitioner" the words "or of the petitioner where the petitioner appears in person", shall be added; and for the last sentence the following shall be substituted,—

"The petitioner shall file along with his petition such number of copies thereof as may be required for the use of the Court."

(b) in rule 4, for the last sentence, the following shall be substituted—

"Where the petitioner is represented by an Advocate, the said affidavit may be sworn to by the petitioner or, where he is for any reason unable to do so, by some person on his behalf acquainted with the facts".

(c) in rule 10, the word "interested" before the word "parties" shall be omitted and after the word "parties" the words "who have entered appearance" shall be inserted;

(d) in rule 11, for the words "a side", "one side" shall be substituted.

(15) in ORDER XVIII —

(a) for rule 2, the following shall be substituted,

"2. The appellant shall lodge his case within four weeks of his lodging the petition of appeal, and the respondent shall lodge his case within four weeks of the service of the petition of appeal. Each party shall lodge not less than eight copies of his Case, printed or neatly typed with quarter margin, on one side of paper of the same size and quality as that used in the printing of the Record in the court below."

(b) for rules 6 and 7 the following shall be substituted—

"6. The appeal shall be set down one month after the expiry of the time prescribed for lodging the statement of case by the parties. Where any party fails to lodge the statement of case within the time prescribed, the appeal shall, subject to the provision in the proviso to rule 1, be set down *ex-parte* against the party in default unless the Court condones the delay and grants further time to the party for lodging his case, in which case the appeal shall be set down after the expiry of the said further time.

"7. Parties who have filed their cases shall exchange them, by handing one another, three copies of their respective cases".

(c) in rule 8, for the words "ten copies", "eight copies" and for the word "Agents" the words "advocates on record" shall be substituted.

(16) in ORDER XIX —

(a) in rule 3, the words "one side" for "a side" shall be substituted;

(b) in rule 4, for the words "petition or", the words "statement of", shall be substituted;

(c) in rule 5, for the word "Agents", the words "Advocates on record", shall be substituted.

(17) for ORDER XXI, the following shall be substituted:—

“ORDER XXI

SPECIAL LEAVE PETITIONS IN CRIMINAL PROCEEDINGS AND CRIMINAL APPEALS

1. Save as hereinafter provided, the provisions contained in Order XIII in relation to applications for special leave to appeal in Civil Proceedings shall apply *mutatis mutandis* to applications for special leave to appeal in criminal matters.

2. A petition for special leave to appeal in a case involving a sentence of death shall be lodged in the Court within thirty days from the date of the refusal of a certificate by the High Court or within thirty days from the date of the judgment, final order or sentence sought to be appealed from, as the case may be:

Provided that the Court may for sufficient cause shown extend the time.

3. Where the petitioner is in jail he may present his petition for special leave to appeal, together with the accompanying documents, including any written arguments which he may desire to advance, to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar.

4. As soon as practicable, the Registrar shall place the petition and the accompanying documents so received before the Court, and the Court, may, upon perusal of the papers, reject the petition summarily without hearing the petitioner in person, if it considers that there is no sufficient ground for granting leave to appeal:

Provided that where the petitioner is represented by counsel of his choice or by an *amicus curiae* assigned to him by the Court, the Court shall not dismiss the petition without hearing the counsel or the *amicus curiae*, as the case may be.

5. All criminal appeals under Articles 132(1) and 134(1)(c) of the Constitution shall be lodged in this Court within thirty days from the date of the certificate granted by the High Court, and all appeals under Article 134(1)(a) and (b) of the Constitution or under any other provision of law within thirty days from the date of the judgment, final order or sentence appealed from:

Provided that in computing the period, the time requisite for obtaining a copy of the judgment or order sought to be appealed from or of the certificate shall be excluded:

Provided further that the Court may for sufficient cause shown extend the time.

6. The appeal shall be in the form of a petition in writing, which shall be accompanied by a certified copy of the judgment or order appealed against and of the certificate.

7. The appellant, if he is in jail, may present his petition of appeal and the accompanying documents, including any written arguments which he may desire to advance, to the officer-in-charge of the jail, who shall forward them forthwith to the Registrar.

8. On receipt of the petition of appeal, the Registrar shall cause notice of the appeal to be given, where the appeal is by a convicted person, to the Attorney-General for India or to the Advocate-General or the Government Advocate of the State concerned, or to both, as the case may require, and, in cases where the appeal is by the Government, to the accused, and shall also furnish the Attorney-General for India and/or the Advocate-General or the Government Advocate concerned or the accused, as the case may be, with a copy of the petition of appeal and other accompanying papers, if any.

9. The Registrar shall thereafter send a copy of the petition of appeal and the accompanying papers, if any, to the High Court concerned for its record. The High Court shall then arrange for the printing of the record in the case and for the transmission of the printed record to the Registrar with all convenient speed. In the preparation of the printed record, the High Court may include the printed paper book prepared for its own use at an earlier stage. The record shall be printed at the expense of the appellant, unless otherwise ordered by the Court, but in appeals involving sentence of death, the record shall be printed at the expense of the Government of the State concerned.

10. (i) As soon as the record has been got ready, the Registrar of the High Court shall despatch to the Registrar of this Court not less than fifteen copies.
(ii) In all cases involving a sentence of death, where sufficient number of copies.

of the High Court printed record are available, they shall be despatched to this Court along with such additional records as may be necessary, as soon as these are printed, and where the record is to be printed afresh for the Supreme Court appeal the printed record shall be made ready and despatched to this Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal.

11. Where the accused person is not represented by counsel of his choice the Court may, in a proper case, direct the engagement of an Advocate at the cost of the Government. The fee of the Advocate so engaged shall be Rs. 100 per day of the hearing.

12. Due notice shall be given to the accused of the date fixed for the hearing of the appeal. The accused person may, where he so desires, present his case by submitting his argument in writing and the Court shall consider the same at the hearing of the appeal.

13. The Court may, where it thinks fit to do so in the interests of justice, direct the production of an accused person in custody at the hearing of the appeal to enable him to argue his case or for other reasons.

14. After the appeal has been disposed of, the Registrar shall, with the utmost expedition, send a copy of the Court's judgment or order to the High Court concerned.

15. Pending the disposal of any appeal under these Rules, the Court may order that the execution of the sentence or order appealed against be stayed on such terms as the Court may think fit.

16. In criminal proceedings no security for costs shall be required to be deposited, and no court-fee, process fee, or search fee shall be charged, and not copying charges shall be levied except for copies other than the first.

17. Save as aforesaid, the preceding Orders in this Part of these rules shall, with the necessary modifications and adaptations, apply, so far as may be, to criminal appeals under this Order, but it shall not be necessary to file a statement of case in appeals under this Order.

(18) in ORDER XXIV—

(a) in rule 4, for the word "Agent", the words "Advocate on record" shall be substituted.

(b) in rule 6, for the word "Agent", the words "Advocate on record" shall be substituted.

(19) in ORDER XXX—

(a) for rule 1, the following shall be substituted.

"1. An application for a writ of *habeas corpus* shall be filed in the Registry and shall be accompanied by an affidavit by the person restrained, stating that the application is made at his instance and setting out the nature and circumstances of the restraint. The application shall also state whether the applicant has moved the High Court concerned for the same relief and, if so, with what result:

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the application shall be accompanied by an affidavit to the like effect made by some other person, which shall state the reason why the person restrained is unable to make the affidavit himself."

(b) for rule 6, the following shall be substituted.

"6. An application for a direction or order or writ in the nature of *mandamus*, *prohibition*, *certiorari* or *quo-warranto* shall be filed in the Registry. It shall set out the name and description of the applicant, the relief sought, and the grounds on which it is sought, and shall be accompanied by an affidavit verifying the facts relied on, and at least six copies of the said application and affidavit shall be lodged in the Registry of the Court. It shall also state whether the applicant has moved the High Court concerned for the same relief and, if so, with what result. The application shall be made by notice of motion, but the Registrar may in appropriate cases put up the application before the Court for orders as to the issue of notice."

(c) for rule 8, the following shall be substituted.

"8. Copies of the said application and the affidavit in support thereof shall be served with the notice of motion and every party to the proceeding shall supply to any other party, on demand and on payment of the proper charges, copies of any affidavit filed by him."

(d) after rule 10, the following rule shall be inserted,—

"11. The provisions of Order XVII relating to petitions shall, so far as may be applicable, apply to petitions under this Order."

(20) in ORDER XXXVII-A—

(a) in rule 3, for the word "Agent", the words "Advocate on record" shall be substituted;

(b) in rule 14 for the word "Agent" occurring in two places, the word "Advocate on record" shall be substituted;

(c) in rule 16, for the word "Agent", the words "Advocate on record" shall be substituted;

(d) in rule 17, for the word "Agent" occurring in two places the words "Advocate on record" shall be substituted;

(e) in rule 18, for the word "Agent", the words "Advocate on record" shall be substituted;

(f) in rule 19, for the word "Agent", the words "Advocate on record" shall be substituted;

(21) in ORDER XXXIX—

(a) in rule 1, the following sentence shall be added at the end—

"Unless the Court otherwise orders an intervener shall not be entitled to costs";

(b) in rule 2, for the word "Agent" occurring in 2 places, the words "Advocate on record" shall be substituted;

(22) for ORDER XL, the following shall be substituted:—

ORDER XL

TAXATION

1. The Registrar, or such other officer as the Chief Justice may appoint for the purpose, shall be the Taxing Officer of the Court.

2. The Taxing Officer shall allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, and shall not allow any costs, charges and expenses which appear to him to have been incurred or increased unnecessarily or through negligence or mistake.

3. The Court may, in any proceedings where costs are awarded to any party, direct payment of a sum in gross in lieu of taxed costs, and may direct by and to whom that sum shall be paid.

4. Where in the opinion of the Taxing Officer a fee ought to be allowed for any matter not provided for in these Rules or a question arises in taxation on which he considers it necessary to obtain the directions of the Chamber Judge the Taxing Officer may refer such matter to the Chamber Judge for orders.

5. Where the Taxing Officer is of opinion that any costs have been injuriously or unnecessarily occasioned by the negligence or improper conduct of any Advocate on record, he shall not allow any charge for the same without the leave of the Court.

6. The Taxing Officer shall without delay bring to the notice of the Chamber Judge any wrong charge which appears to him to have been wilfully made in any bill of costs.

7. Every bill of costs lodged for taxation shall specify the exact number of folios contained in the bill lodged.

8. Every bill of costs shall be properly dated throughout and shall show in a column for the purpose the money paid out of pocket.

9. Every bill of costs shall be certified by the signature of the Advocate on record in the case.

10. The fees for taxation and registration of every bill of costs shall be paid in court-fee stamps when the bill is lodged for taxation.

11. Every bill of costs shall, wherever possible, be accompanied by vouchers, and every item of disbursement and the cause thereof shall be distinctly specified, and no payment out of pocket shall be allowed except on production of the necessary voucher, or in the case of Advocate's fees, without the signature of the Advocate that the fee has been paid:

Provided that in the case of the Attorney-General or the Solicitor-General, or the Advocate-General of any State, or other Government Advocate, appearing for the Government, and in any case where the Chamber Judge so directs, the fee may be allowed without the production of a certificate that the fee has been paid.

12. Within three weeks from the date of the Judgment or order awarding costs, or within such further time not exceeding two weeks as the Taxing Officer may for good cause allow, the party to whom the costs have been awarded shall lodge in the Registry the bill of costs and vouchers. He shall also serve on the opposite party a copy of the bill of costs and file in the Registry proof of such service. The Taxing Officer shall fix a date for the taxation of the bill and shall notify the parties of the date fixed.

13. A bill of costs presented out of time shall be returned to the party and the Taxing Officer shall not receive or tax the same except by order of the Chamber Judge.

14. Except as otherwise provided in these rules or by any law for the time being in force, the fees set out in the Second and Fourth Schedules to these rules may be allowed to Advocates and officers of Court respectively.

15. No retaining fee to an Advocate shall be allowed on taxation as between party and party.

16. Where an Advocate appears for different parties in the same suit, appeal or matter, only one set of fees shall be allowed, unless the Court otherwise orders.

17. Where two or more appeals arising out of a single proceeding are heard together and costs are awarded in both or all of them, only one set of counsel's fee shall be allowed for the hearing, unless the Court or the Chamber Judge otherwise directs.

18. In defended appeals, suits and references under Articles 143 and 317(1) of the Constitution, the first day's hearing fee shall be allowed in full as per the Schedule, for the first four and a half hours of the hearing or part thereof, subject to the provisions contained in rules 20 and 21 hereunder.

19. No refresher shall be allowed unless the hearing has lasted for more than four and a half hours, and the Taxing Officer shall have discretion to reduce the refresher or to allow an additional refresher having regard to the duration of the hearing after the first four and a half hours. The Refresher shall, however, not be reduced by more than one-half.

20. Where the hearing of a part-heard case is held up on account of the Court being occupied with any miscellaneous matters, the time taken in the hearing of such miscellaneous matters shall be taken into consideration by the Taxing Officer for purposes of a refresher.

21. In cases involving less than Rs. 20,000 in value, the Taxing Officer shall have discretion to reduce the fees, including the first day's hearing fee and the 'acting' fee, suitably according to the nature of the case.

22. Where an appeal is compromised prior to its being set down for hearing, the fees to be allowed to counsel under item 1 of Part I of Schedule II shall be half the amounts specified therein subject to the terms of the compromise.

23. The fees provided in items 3 to 8 of Part I of the Second Schedule shall be subject to reduction in the discretion of the Taxing Officer according to the nature of the case.

24. Where a dispute arises between the Advocate on record and his client as to the fees and charges payable to the Advocate, either party may apply to the Chamber Judge for an order to have the bill taxed and, on an order for taxation,

being made, the Taxing Officer may proceed to tax the bill. The application, when made by the Advocate, shall be accompanied by a copy of the bill sought to be taxed:

Provided that where the client has expressed his consent in writing to the taxation of costs between himself and his Advocate on record in any proceeding, the Advocate may present his bill of costs in that proceeding for taxation without an order of the Chamber Judge, and the Taxing Officer shall thereupon proceed to tax the bill.

25. In every case of taxation between advocate and client, the client shall be duly summoned by the Taxing Officer to attend the taxation, and the summons shall be served on the client at least two weeks prior to the date fixed for taxation.

26. Subject to any agreement in writing to the contrary, the rules regulating the taxation of costs between party and party shall be applicable as far as may be to taxation between advocate and client.

27. No agreement between the Advocate on record and his client to pay fees higher than those prescribed in the Second Schedule shall be recognized unless the same has been recorded in writing and is signed by the client and has been filed before the commencement of the hearing or within such further time as the Chamber Judge may allow.

28. Where the Taxing Officer is of the opinion that any such agreement filed as aforesaid is unfair or unreasonable, he may require the opinion of the Chamber Judge to be taken thereon and the Judge may make such order as he may think just, and the taxation shall proceed in accordance with such order:

Provided that where the fees are payable by the client personally or out of a fund belonging entirely to him, any fees actually paid by the Advocate on record to the Senior or other Advocate in excess of the fees prescribed in the Schedule with the previous written consent of the client, shall not be called in question, if such consent has been filed prior to the commencement of the hearing or within such further time as the Chamber Judge may allow.

29. Where the amount of a bill of costs between Advocate and client is reduced by 1/6th or more, the Advocate's fee for attending taxation shall be disallowed.

30. An Advocate whose bill against his client has been taxed may apply to the Chamber Judge for an order against his client or his legal representative for payment of the sum allowed on taxation or such sum thereof as may remain due to him. The order so made may be transmitted for execution to such Court as the Chamber Judge may direct.

31. Any party who is dissatisfied with the allowance or disallowance by the Taxing Officer of the whole or any part of the items in a bill of costs may apply to the Taxing Officer to review the taxation in respect thereof.

32. An application for review shall be made within a week from the date of the passing of the bill in the Taxing Office, and four days' notice thereof shall be given to the other party.

33. Objections in writing specifying concisely the items or parts of the bill objected to and the grounds for the objections shall be served with the notice on the other party, and a copy thereof shall at the same time be carried in before the Taxing Officer.

34. Objections which were not taken in at the time of the taxation shall not be taken in at the stage of review, unless allowed by the Taxing Officer.

35. Upon application to review his order, the Taxing Officer shall reconsider his taxation upon the objections carried in and may, where he thinks fit, receive further evidence in respect thereof, and shall state in a certificate the grounds of his decision thereon and any special facts or circumstances relating thereto.

36. Any party dissatisfied with the decision of the Taxing Officer on review may, not later than seven days from the date of the decision, or within such further time as the Taxing Officer or the Chamber Judge may allow, apply to the Chamber Judge for an order to review the decision of the Taxing Officer and the Chamber Judge may thereupon make such order as may seem just.

37. No evidence shall be received by the Chamber Judge upon the review of the Taxing Officer's decision which was not before the Taxing Officer when he taxed the bill or reviewed his taxation unless the Chamber Judge otherwise directs,

38. The certificate of the Taxing Officer by whom any bill has been taxed shall, unless it is set aside or altered by the Chamber Judge, be final as to the amount of the costs covered thereby.

39. The allowances to be made to witnesses per diem shall be such as the Taxing Officer may think reasonable having regard to the profession or status of the witness.

40. Witnesses residing more than five miles from the place where the Court sits shall be allowed travelling expenses according to the sums reasonably and actually paid by them and shall also be allowed such sum for subsistence money and carriage hire as the Taxing Officer, having regard to the daily allowances allowed under rule 39, considers reasonable.

41. Every person summoned to give evidence shall have tendered to him with the summons a reasonable sum for his travelling expenses (if any) and for the first day's attendance and shall, if obliged to attend for more than one day, be entitled, before giving his evidence, to claim from the party by whom he has been summoned the appropriate allowances and expenses for each additional day that he may be required to attend.

42. Witnesses who have not been paid such reasonable sums for their expenses as the Court allows by its Rules may apply to the Court at any time in person to enforce the payment of such sum as may be awarded to them.

43. For the purposes of this Order, a folio shall consist of two hundred words; seven figures shall be counted as one word; and more than half part of a folio shall be reckoned as a folio."

(23) in ORDER XLIII—

(a) in rule 2, for the word "Agent" occurring in two places, the words "Advocate on record" shall be substituted;

(b) in rule 3, the words "where so directed by the Court" shall be omitted, and the following proviso shall be added at the end—

"Provided that the Registrar may direct in a particular case or class of cases, that the service shall be effected in the manner provided by the Code for the service of summons".

(c) for rule 5, the following shall be substituted—

"5. Except where the notice or process has been served through the Registry, the party required to effect the service shall file an affidavit of service, along with such proof thereof as may be available, stating the manner in which the service has been effected."

(24) for ORDER XLVI, the following shall be substituted:—

"ORDER XLVI

DESTRUCTION OF RECORDS

1. There shall be an index of the records in every case in, the form prescribed below:

Index of Papers
in
Civil Appeal No. of
(or Criminal Appeal No. or Petition No. or Suit No.
Cause Title

Serial No.	Date of filing the paper in the record	Description of paper	No. of the part to which it belongs	REMARKS

2. The record in each case shall be divided into two parts, Part I to be preserved permanently and Part II to be preserved for a period of not less than three and not more than six years as hereinafter provided.

3. Each paper as and when it is filed in the record, shall be numbered and entered in the Index and classified under the appropriate part to which it belongs.

4. The period for which any particular record is to be preserved shall be reckoned from the date of the final decree or order in the proceeding to which the record belongs, and in case a Review is filed against the decree or order, from the date of the final decree or order made on Review. In the case of registers, the period shall be reckoned from the date of the last entry in the Register.

5. The Registrar may direct that any paper assigned to Part II be transferred to Part I for being preserved permanently.

6. Records which do not fall under Part I or Part II as classified below, shall be referred to the Registrar who shall decide the part under which they should be included.

7. When any record is ripe for destruction, it shall either be burnt or sold as waste-paper, as the Registrar may in his discretion direct.

8. Where the record is sold as waste-paper, the sale proceeds shall be credited to Government.

9. As soon as a record is destroyed, a note shall be made in the Index against the record showing that it has been destroyed and the date of destruction.

10. PART I:—

The following papers shall be included under Part I (to be preserved permanently):—

1. Index.
2. Judgment.
3. Decree or Order.
4. Order for costs.
5. Pleadings (plaint, written statement, set off and counter claim).
6. Authenticated copy of the printed record.
7. Petition of appeal.
8. Statement of Case.
9. Original Petitions including special leave petitions and Article 32 petitions.
10. Interlocutory applications other than applications for condonation of delay and other formal applications.
11. Orders on petitions.
12. Reference received under Article 143.
13. Reference received under Article 317(1).
14. Memorandum of compromise; award of Arbitrators, which results in a decree.
15. Title deeds, if any, remaining unreturned to any party.
16. Any other records or papers which the Registrar may direct to be included in this part.

Registers

1. Minutes Book.
2. Registers of Suits, Civil and Criminal appeals, Article 32 petitions, special leave petitions, special references and miscellaneous petitions.
3. Register of papers received.
4. Rolls of Advocates and enrolment files.

PART II

The following papers shall be included in Part II and shall be destroyed after a period of three or six years as indicated below:

- | | | |
|--|---|--------------|
| 1. Appearance, Power of Attorney and Vakalat. | } | six years. |
| 2. Affidavits. | | |
| 3. Taxation files including bills of costs. | | |
| 4. Register of bills of costs. | | |
| 5. Despatch Registers. | | |
| 6. Surplus copies of printed records, and of pleadings and petitions. | } | three years. |
| 7. Applications for condonation of delay and such other formal applications. | | |
| 8. Correspondence in cases. | | |
| 9. Unclaimed documents filed by parties other than title deeds. | | |
| 10. Office notes in the case files. | | |
| 11. Copies of summons and notices. | | |
| 12. Copying Register." | | |

(25) after ORDER XLVI in Part X the following Part and Order shall be inserted:—

"PART XI.

ORDER XLVII

Appeals and other proceedings transferred under clause (4) of Article 374 of the Constitution.

The rules contained in the foregoing Orders shall apply, so far as may be, to all appeals and other proceedings transferred to the Court under clause (4) of Article 374 of the Constitution and pending in it in respect of all stages subsequent to the transfer."

(26) in the FIRST SCHEDULE—

- (a) in rule 1, the following words shall be added at the end—
"on both sides of the paper with 'single spacing'".
- (b) in rule 2, the word "about" between the words "will be" and 'the figure "11", shall be inserted;
- (c) for rule 3, the following shall be substituted;
"3. The type to be used in the text shall be Pica type, but Long Primer shall be used in printing accounts, tabular matter and notes. Every tenth line shall be numbered in the margin."
- (d) in rule 9, for the words "each document shall have a marginal note which shall be repeated on"; the words "Each document shall have a heading which shall be repeated at the top of" shall be substituted;
- (e) in rule 9 Part I (b), for the words "marginal note" the word "heading" shall be substituted;
- (f) in rule 9 Part I (c), for the word "beneath" the words "next to", shall be substituted, and the words "the marginal note consisting of" shall be omitted;
- (g) in rule 9, for Part II, the following shall be substituted—

"PART II

The word "Exhibit" shall first appear and next to it the Exhibit mark and the description of the document in the Index with the date.

Sufficient space shall be left after the heading to distinguish it from the rest of the matter printed on the page."

(27) for Second Schedule, the following shall be substituted;

"SECOND SCHEDULE

FEEs TO ADVOCATES

PART I

		Fec on brief not exceeding	Refresher not exceeding
		Rs.	Rs.
1. Defended Appeals, Suits and References under Articles 143 and 317(1) of the Constitution.	Senior	800	400
	Junior when not led by Senior and himself pleads.	500	250
	Junior when not pleading but only instructing.	350	175
2. Undefended Appeals	One fee	250	No refresher.
3. Special Leave Petitions	Senior (if allowed)	300	} No refresher.
	Junior when not led by Senior and himself pleads.	150	
	Junior when not pleading but only instructing.	100	
4. Article 32 Petitions	Senior (if allowed)	350	175
	Junior when not led by Senior and himself pleads.	200	100
	Junior when not pleading but only instructing.	150	75
5. Notices of motion other than Art. 32 Petitions when opposed.	Senior (if allowed)	150	} No refresher.
	Junior	100	
6. Review Petitions in Court	Senior (if allowed)	150	} No refresher
	Junior	100	
7. Opposed applications or investigations in Chambers	One fee	150	
8. Unopposed motions and Chamber applications and Review applications in taxation.	One fee	50	
9. Attending taxation	One fee	30	

PART II

	Not exceeding Rs.
1. To Junior Advocate for drafting Special Leave Petitions and Petitions under Article 32 of the Constitution inclusive of the affidavits in support of the Petition.	75
To the Senior for settling Special Leave Petitions and Petitions under Article 32 of the Constitution inclusive of the affidavits in support of the Petition.	100
2. To Junior Advocate for drafting other Petitions or affidavits (other than formal petitions like petitions for excusing delay and affidavits in them and affidavits of service).	30
To Senior Advocate for settling other Petitions or affidavits (other than formal petitions like petitions for excusing delay and affidavits in them and affidavits of service).	60
3. To Junior Advocate for drawing statement of case in Appeals, pleadings in Suit or Special Case :	
When the statement, pleading or special case is settled by Senior.	100

	Not exceeding
When the statement, pleading or special case is not settled by Senior.	Rs. 150
To Senior Advocate for settling statement of case in Appeals, pleadings in suit or special case in consultation with Junior.	200
4. <i>Acting fees.</i>	
In Appeals (defended & undefended)	200
In Article 32 Petitions	100
Actual postal and telegraph charges where necessary to be allowed in the discretion of the Taxing Officer.	

PART III

	Rs.	A.	P.	
1. Preparing copies of documents (other than tabulated statements and accounts) whether written or typed, first copy per folio.	0	4	0	} Or actual charges incurred.
2. Preparing carbon copies of above, if legible, per folio	0	2	0	
3. Preparing copies of tabulated statements and accounts, per folio	0	3	0	
4. Preparing carbon copies of above, per folio	0	4	0	
5. Preparing lithographed or printed copies per folio for each copy.	0	5	0	
6. Preparing photographed copies	..			Actual charges.
7. Making transcript or copying papers for the press where necessary for preparing paper book, including examination, per folio.	0	10	0	
8. Printing paper book—Actual cost at a reasonable rate to be allowed by the Taxing Officer.				
9. Examining proofs, per folio	0	5	0	

(28) in the Third Schedule,—

(a) in Part II for item 4, the following shall be substituted—

“4. Application for Review of Judgment or Order of Court Half the fee paid on the original proceeding.”

(b) in Part III, for item 5, the following shall be substituted—

“Vakalatnama Rs. 3 0 0”

(c) for item 16, the following shall be substituted ;

“16. For every attendance on parties or their Advocates inspecting books and papers in Court. Rs. A. P.
5 0 0”

(29) for the Fourth Schedule, the following shall be substituted—

“FOURTH SCHEDULE

FEES TO OFFICERS OF COURT.

	Rs.	A.	P.
1. Fees of Interpreter for explaining at the house of a party or any place other than the Court House, pleadings and other documents except affidavits or affirmations where not exceeding 20 folios.	8	0	0
Where over 20 folios, for every 10 folios or part thereof	2	8	0
2. Fees of Registrar for taking bonds and of commissioners for taking affidavits or affirmations at the house of a party or any place other than the Court House :			
For the first affidavit, oath or affirmation or bond, where within the limits of the State of Delhi.	16	0	0
For the first affidavit, oath or affirmation or bond, where beyond such limits	24	0	0
For every affidavit, oath or affirmation or bond taken at the same time and place after the first, in the same suit, appeal or matter.	8	0	0
3. Fees of commissioners, for receiving affidavits, oaths or affirmations at the Court House, for every affidavit, oath or affirmation.	2	0	0

4. Fees of interpreter for explaining bonds, affidavits or petitions,

at the house of a party or any place
other than the Court House.

Half the fees allowed
to Registrar or
Commissioner."

(30) in form No. 1, the words "or Agent" occurring in the heading and the words "as an Agent" occurring in the body of the form, shall be omitted.

(31) Form No. 2 shall be omitted.

(32) for Form No. 3, the following shall be substituted—

"No. 3

VAKALATNAMA

(S. C. R. Order IV, rule 19).

IN THE SUPREME COURT OF INDIA

APPELLATE/ORIGINAL JURISDICTION

SUIT/APPEAL

No. OF 19....

PETITION/REFERENCE

Between

Plaintiff, Appellant, Petitioner,

and

Defendant, Respondent, Opposite Party.

VAKALATNAMA

I/We.....(name) Plaintiff(s)/Appellant(s)/Petitioner(s) in the above Suit/

Defendant(s)/Respondent(s)/Opposite Party

Appeal/Petition/Reference do hereby appoint and retain.....
Advocate(s) of the Supreme Court to act and appear for me/us in the above Suit/
Appeal/Petition/Reference and on my/our behalf to conduct and prosecute (or
defend) the same and all proceedings that may be taken in respect of any applica-
tion connected with the same or any decree or order passed therein, including
proceedings in taxation and applications for Review, to file and obtain return of
documents, and to deposit and receive money on my/our behalf in the said Suit/
Appeal/Petition/Reference and in applications for Review, and to represent
me/us and to take all necessary steps on my/our behalf in the above matter.
I/We agree to ratify all acts done by the aforesaid Advocate(s) in pursuance of
this authority.

Dated this the day of 19.....

PLAINTIFF(S)/APPELLANT(S)/PETITIONER(S)

DEFENDANT(S)/RESPONDENT(S)/OPPOSITE PARTY.

Accepted.

Signed.....

ADVOCATE

The address for service of the said Advocate is....."

(33) in Form No. 4, for the word "Agent" occurring in three places, the word "Advocate" shall be substituted.

(34) in Form No. 5,—

(a) the last sentence beginning with the words "And also take notice" shall be omitted;

(b) for the word "Agent" the word "Advocate" shall be substituted.

(35) in Form No. 6,—

(a) the words "If special leave to serve the notice has been obtained add as follows", and the words, "And take notice also, that special leave to give this (if so, short) notice for the day and hour aforesaid has been obtained from the Court", shall be omitted;

(b) for the word "Agent" the word "Advocate" shall be substituted,

(36) in Form No. 9, for the word "Agents" the word "Advocates", shall be substituted.

(37) in Form No. 12, for the word "Agents" the word "Advocates" shall be substituted.

(38) in Form No. 13 the words "duly instructed by an Agent" shall be omitted.

(39) in Form No. 14, for the word "Agent" the word "Advocate" shall be substituted.

(40) in Form No. 15, for the word "Agent" the word "Advocate" shall be substituted.

(41) in Form No. 16, for the word "Agent" the word "Advocate" shall be substituted.

(42) in Form No. 17, for the word "Agent" the word "Advocate" shall be substituted.

(43) in Form No. 18, for the word "Agent", the word "Advocate" shall be substituted.

(44) In Form No. 20, the words "by an Agent or" and the words "duly instructed by an Agent" shall be omitted.

(45) in Form No. 21 for the word "Agent" the word "Advocate" shall be substituted.

(46) in Form No. 22, for the words "Agent for the Appellant" the words "Advocate for the Appellant" shall be substituted; and the words commencing from "and as between Agent" and ending with the words "against this sum" shall be omitted.

(47) in Form No. 24, for the word "Agent" the word "Advocate" shall be substituted.

(48) in form No. 25, for the word "Agent" the word "Advocate" shall be substituted.

(49) in Form No. 26,—

(a) the words "Agents or" in the last sentence in para 2 shall be omitted;

(b) for the word "Agent" occurring in two places below para 2, the word "Advocate" shall be substituted.

By Order of the Court,

P. N. MURTY, Registrar.